

## **REMARKS**

Applicants respectfully request reconsideration of this application in view of the foregoing amendment and following remarks.

### **Status of the Claims**

Claims 1-212 are pending in this application. Claims 32-67 and 130-212 are withdrawn from consideration, i.e., claims 1-31 and 68-129 remain under consideration. Claims 1-31 and 68-129 stand rejected. By this amendment, independent claims 1, 29-31, 68, 96-99 and 127-129 are amended. No new matter has been introduced by this amendment.

### **Rejection under 35 U.S.C. §§ 102 and 103**

Claims 1-4, 6-31, 68-74, 76-102 and 104-129 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,192,340 to Abecassis ("Abecassis"). Claims 5, 75 and 103 have been rejected under 35 U.S.C. §103(a) as allegedly being obvious over Abecassis.

In rejecting the independent claims (i.e., claims 1, 29-31, 68, 96-99 and 127-129), the Office Action cites several portions of Abecassis. For example, the Office Action cites col. 11, lines 1-2 and col. 11, lines 22-30 as disclosing "receiving schedule information" of the present invention. Col. 11, lines 27-28, line 32 and lines 36-37; col. 16, line 42 of Abecassis are cited as disclosing "identifying" step of the present invention. Col. 2, lines 11-19, col. 8, lines 49-51, col. 11, lines 38-40 and col. 22, lines 65-67 of Abecassis are cited as disclosing "determining" step of the present invention. Finally, col. 2, lines 36-53 and col. 2 line 65 to col. 3, line 4 of Abecassis are cited as "transmitting" of the present invention.

Abecassis discloses a system in which a user can play selected favorite songs from a music library. In an effort to provide the user of the system with information that a real-time broadcast offers such as news information, or the sense of currency and companionship, Abecassis's system obtains so-called "information preferences" of a user from a service provider and provides them to the user between the playing of songs. Abecassis defines the term "information preferences" as "the audio that is produced by an AM radio broadcast between the playing of songs, including, for example, information relating to the song being played, and/or news, weather, and traffic reports, jokes, quotes, inspirational or motivational messages, advertisements, and programming of a non musical nature." Col. 2, lines 11-19 of Abecassis.

First of all, Abecassis discloses a so-called "radio-on-demand" system where the user (e.g., a listener) determines the timing of when the audio is played. In other words, the end-user is interactively involved in the control of the system.

In contrast, in the present invention, the timing of events and the user experience is defined by the individual broadcast schedules of each of the broadcasters in the network and the intelligence of the content management system to schedule the supplemental data of the present invention, i.e., users do not get to decide when audio is played and when supplemental data will be delivered. One of the aspects of the present invention dynamically "selects" and "provides" the broadcaster with supplemental data for a real-time broadcast based upon the analysis of the broadcast data identified in the schedule.

As Applicants understand it, Abecassis fails to show or suggests this aspects of invention as discussed above. For example, the broadcast schedule Abecassis is provided to the end-user by the broadcaster and the end-user is participating in the scheduling procedure. The purpose of

the providing the schedule to the end-user is that the end-user using a system (i.e., Multimedia Player) can store information from a broadcast stream based upon user preferences established from this schedule. Based upon the user preferences established via the schedule procedure, the medial player could "download" selected audio content for playing later.

Nonetheless, independent claims 1, 29-31, 68, 96-99 and 127-129 have been amended for further clarification. In particular, amended claim 1 recites, *inter alia*, "transmitting at least a portion of the supplemental digital data to the at least one broadcaster prior to the scheduled time thereby enabling the at least one broadcaster to transmit the supplemental digital data to the listener at the scheduled time in a separate stream from the broadcast data." Other independent claims (i.e., claims 29-31, 68, 96-99 and 127-129) are amended in a similar manner to claim 1 as described herein.

Another aspect of the present invention as featured in the amended claims is directed to coordinating transmissions of supplemental digital data by a broadcaster. It is known in the art that a radio broadcaster can transmit digital data over it's current analog transmission frequencies using a Digital Audio Broadcasting (DAB) technology such as In-Band On-Channel (IBOC). See, e.g., paragraph [0004] of the U.S. Pub. No. 2002/0141491 published corresponding to the present application.

Specifically, the method of claim 1 "receives" schedule information of a broadcaster, and "identifies" the broadcast data from the schedule information. Once the broadcast data is identified, relevant supplemental digital data are determined according to the broadcast data. The present invention teaches that the supplemental digital data can be related to broadcast data ("analog audio") or independent of the broadcast data. See, e.g., paragraph [0039] of the

corresponding published application. The present invention then "transmits" the determined supplemental digital data to the broadcaster "prior to" the scheduled time allowing the broadcaster to transmit the supplemental digital data the listener at the scheduled time in a separate stream from the broadcast data. For example, the broadcaster may "data-cast" the supplemental digital data while it broadcasts analog audio using the IBOC technology.

Applicants believe that the cited reference Abecassis fails to show or suggest this aspect of invention as discussed above as well. For example, Abecassis transmits the information preferences between the playing of songs. See, e.g., col. 2, lines 11-19 of Abecassis as quoted above. Abecassis further teaches that the obtained information preferences are "interleaved and sequenced". See, e.g., col. 2, line 62 - col. 3, line 4 of Abecassis. In other words, the transmission of information preferences and the audio broadcast are not conducted in a separate channel in Abecassis. In contrast, the present invention requires that the supplemental digital data are transmitted in a separate stream from the broadcast data as discussed above.

Accordingly, each of claims 1, 29-31, 68, 96-99 and 127-129 is believed neither anticipated by nor rendered obvious in view of the cited reference (i.e., Abecassis) for at least the reasons discussed above.

Reconsideration and withdrawal of the rejections of claims 1, 29-31, 68, 96-99 and 127-129 under 35 U.S.C. §102(e) is respectfully requested.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. However, these statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Also, Applicants have not individually addressed the rejections of the dependent

claims because Applicants submit that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicants however reserve the right to address such rejections of the dependent claims should such be necessary.

Applicants believe that the application as amended is in condition for allowance and such action is respectfully requested.

**AUTHORIZATION**

No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicant hereby petitions the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 4232-4002). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: October 2, 2007

By:

  
Sungho Hong  
Registration No. 54,571

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 (Telephone)  
(212) 415-8701 (Facsimile)